

### REMARKS

After entry of this amendment, claims 1-18 and 33-38 will remain in this case.

The information disclosure statement filed on 18 May 2007 was stated to be defective. A corrected list of patents/other information is submitted with a corrected Information Disclosure Statement by Applicant with this Amendment.

The drawings were objected to based on certain claims. Claims 21-32 were rejected under 35 USC section 112. Applicant has canceled claims 19-32 to obviate the above rejections and objections and facilitate prosecution of his application. However, applicant retains the option of pursuing any of these rejected claims in a continuing patent application.

The claims are rejected primarily on the basis of US patent number 6,058,930 to Shingleton. It is believed that the obviousness type double patenting rejection is not necessary or appropriate because the 930 patent is prior art. Rather, the Examiner's rejection under 35 USC sections 102 and 103 regarding the Shingleton 930 patent appears to be the appropriate grounds of rejection.

#### The Cited Art

US patent number 6,058,930 to **Shingleton** discloses a solar array 80 (see figure 9A) of several rows 30 of solar panels 14. The solar panels 14 are mounted to torque tubes 12 which are journaled to the upper ends of vertical piers 16. A linear actuator 42 is used to rock the rows 30 of solar panels 14 between East-facing and West-facing orientations.

The patent to **Catella** (U.S. Patent No. 4,611,090) discloses a structural support for PV modules. The embodiment of figure 5 discloses an array of 30 of support members 32. Each support member 32 includes a frame 33 having inwardly extending rib stiffeners 36 that terminate near the center at a rectangular structure 37. Posts 43 are used to connect the support members 32 at each end of the array 32 to a base 42 at each end.

The **Morton** patent (U.S. Patent No. 6,341,451) discloses a portable garage 10 having solar panels 21, 22 on its top wall 12. The solar panels are used to power, for example, cylinder and arm members 29, 30 to open and close garage door 24.

#### The Cited Art Distinguished

**Independent claim 1** has been rejected as anticipated by Shingleton. Shingleton shows a tracking solar collector arrangement. However, Shingleton fails to show or suggests the use of the  
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shade structure and second mounting assembly supporting the shade structure of claim 1. The distinctions between Shingleton and claim 1 is even greater because claim number one has been amended to specify that the shade structure is a stationary shade structure positioned at a fixed location. There is nothing in Shingleton or the other cited art disclosing or suggesting any such shade structure. There would have been no reason to modify Shingleton because the art lacks any reason to provide a shaded region, must less an enhanced shaded region, in conjunction with rows of panels

**Independent claim 33** is allowable for the same reasons as is claim 1.

The **dependent claims** are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims.

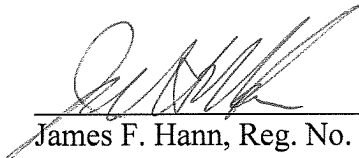
- For example, **claim 13** has been rejected in part over Catella. While applicant believes that the rib stiffeners 36 and rectangular structure 37 of Catella does not constitute a protective panel, claim 13 has been amended to more specifically recite what one of ordinary skill in the art would understand as characteristics of a protective panel, that is something covering the lower surface to protect it from damage. There would have been no reason to modify the cited art to arrive at the invention of claim 13 because there is no recognition of the desirability or need to do so. Accordingly, claim 13 is further allowable over the art.
- Dependent **claim 16** recites that "the protective panels have a lower protective panel surface, at least substantially the entire lower protective panel surface being convex." This feature is not disclosed by the cited art. It would not have been obvious to modify the rectangular terminal-box storing recess 3 of Yamawaki to be as large as the entire lower surface of the panel because it would then be much larger than necessary, that is a space for a terminal box. Accordingly, there would be **no reason to modify** the art to arrive at the invention of claim 16 so that claim 16 is independently patentable over the cited art.
- As to **claim 36**, the Morton patent shows a portable garage having solar panels on its roof to allow the doors to be opened and closed with the electricity generated by the solar panels. Even if one were to assume, for sake of discussion, that it would have been obvious to combine the teachings of Shingleton and Morton, the resulting structure would not bear much resemblance to the claimed invention. That is, you would not have a support structure comprising first and second mounting assemblies

with the second mounting assembly supporting the shade structure as claimed. New dependent **claims 37, 38** are even further distinguishable from such an assumed combination of Shingleton and Morton. Therefor, claims 36-38 are further allowable over the cited art.

In light of the above remarks and the amendments to the claims, applicant submits that the application is in condition for allowance and action to that end is urged. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

Respectfully submitted,

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